

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Tanaka L. Birdo,

Case No. 20-CV-1107 (JRT/ECW)

Plaintiff,

v.

**REPORT AND RECOMMENDATION**

Drew Evans,

Defendant.

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In an order dated June 8, 2020, this Court indicated several deficiencies in the complaint filed by plaintiff Tanaka L. Birdo. *See* Dkt. No. 3. Rather than recommend immediate dismissal of the action, this Court allowed Birdo 30 days in which to file an amended pleading, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Birdo has not yet filed an amended pleading. In fact, Birdo has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,  
IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT  
PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: July 21, 2020

s/Elizabeth Cowan Wright  
ELIZABETH COWAN WRIGHT  
United States Magistrate Judge

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).